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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



-----X
~~XCHANGE TELECOM LLC~~
~~VELOCITY WIRELESS LLC~~

Civil Action No. 1:18-cv-6826-WFK-RER

Plaintiff,

~~PLAINTIFF'S~~ DEFENDANT
AFFIDAVIT/AFFIRMATION
IN OPPOSITION TO
~~DEFENDANT'S~~ MOTION
PLAINTIFFS

-against-

~~XCHANGE TELECOM LLC~~

VELOCITY WIRELESS

PLAINTIFF Defendants.

-----X
STATE OF NEW YORK

SS.

COUNTY OF KINGS

VELOCITY WIRELESS LLC, affirms the following under penalty of perjury:

1. I am the plaintiff in this action, and I respectfully submit this affidavit/affirmation in opposition to the motion dated November 15, 2018, Made by, XCHANGE TELECOM LLC

2. I have personal knowledge of facts which bear on this motion.
3. The motion for Temporary Restraining Order ("TRO") and a preliminary injunction should be denied because,

XCHANGE TELECOM LLC is trying to achieve through this frivolous motion what it could not obtain from the FCC (Federal Communications Commission) was namely a way to prevent VELOCITY WIRELESS LLC from competing with XCHANGE TELECOM LLC. XCHANGE letter to the FCC requesting for VELOCITY WIRELESS LLC to cease operation in the 3650-3700 was denied.

Letter to FCC attach Exhibit A

VELOCITY WIRELESS LLC respectfully submits this opposition to XCHANGES' motion for a preliminary injunction and temporary restraining order ("TRO motion"). The TRO motion should be denied. First, XCHANGE TELECOM LLC is unlikely to succeed on the merits. XCHANGE TELECOM LLC belief that the FCC (Federal Communications Commission) gives XCHANGE TELECOM LLC exclusive right to operate in the 3.650-3700 MHz band is completely mistaken. Public Notice DA 07-4605 clearly state that the 3650-3700 MHz band is a Nationwide, non-exclusive license. 47 C.F.R. § 90.1319 VELOCITY WIRELESS LLC is a 3650-3700 MHz band license holder and has all right to operate in this band. License and Acceptance letters attach Exhibit B

On the 2nd day September, 2017 Scott Sedlar of XCHANGE TELECOM LLC contacted Mr. Sepoe of VELOCITY WIRELESS LLC and stated that "VELOCITY'S base station at 132 Ditmas Ave is interference with XCHANGE'S base station and that Mr. Sepoe should turned off VELOCITY'S base station so XCHANGE can come up with a plan as where we can coexist".

In good faith to meet our obligation to cooperate and avoid harmful

interference, VELOCITY WIRELESS LLC turned it's base station off on September 2nd, 2017 for three weeks to give XCHANGE TELECOM LLC enough time to come up with a plan to coexist as discussed with Scott Sedlar, Director of Engineering at XCHANGE.

On September 8, 2017 Mr. Sepoe received an email from Scott Sedlar as a clear indication that XCHANGE TELECOM LLC was unwilling to meet it's obligation to cooperate and avoid harmful interference to one another as well as to protect grandfathered operations. Paragraph two of Scott's letter "We are working as hard as we can to figure out some solution where we can coexist, however, as discussed it is practically impossible to move all those customers off of the channels in the area that you want."

practically impossible he said, does this sound like someone who is willing to coexist? No. Scott Sedlar Letter Attach Exhibit C

VELOCITY WIRELESS LLC also received authorizations from all Grandfathered

Earth Stations Licensee to deploy its base stations. Letter from Grandfathered Earth Station Attach. Exhibit D

In view of the foregoing, it is respectfully submitted that the motion should be denied.

I declare under penalty of perjury that the foregoing is true and correct.

Sworn to me before this

11 day of 12 2018

Doyette Mickles
Notary Public



Signature, Pro Se Plaintiff

KRADEH SEPOE
Name

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